IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6660 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHBHAI KESHAVBHAI BHANDARI

Versus

STATE OF GUJARAT NOTICE TO BE SERVED THRO.

Appearance:

MS BANNA DUTTA for MR AR SHAIKH for Petitioner No. 1

MR RM CHAUHAN, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 24/09/2003

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order dated 21.4.2003 passed by the District Magistrate, Valasd, against him, in exercise of powers under Section 3(2) of the Gujarat Prevention of Anti Social Activities Act, 1985

(hereinafter referred to as "PASA Act") declaring the petitioner to be a "bootlegger" within the meaning of the PASA Act, and directing the detention of the petitioner. In pursuance of the said impugned order in this petition, the petitioner is detained in jail since 21.4.2003.

2. The grounds served upon the petitioner and placed on record reveal that the detaining authority relied upon the offences registered against the petitioner on 19.2.2002, 29.04.2002 and 21.1.2003 under Sections 66(1)(b), 65(a)(e) 81 of the Bombay Prohibition Act. The detaining authority also took into consideration in-camera statements of two witnesses recorded on 30.3.2003 by the proposing authority and verified by the detaining authority on 8.4.2003. The witnesses referred the incident occurred about 1 and half months before the recording of the statements. From the above material, the order impugned in this Special Civil Application came to be passed by the detaining authority against the petitioner on 21.4.2003.

3. Learned Advocate Ms.Banna Dutta for Mr. A.R. Shaikh for the petitioner and learned AGP Mr. R.M.Chauhan for the respondents were heard at length.

4. Out of various contentions raised on behalf of the petitioner, and controverted by the AGP, it appears that the matter can be dealt with and disposed of on the ground of delay in passing the order impugned in this Special Civil Application. On going through the grounds and the facts of the case, it reveals that the last offence came to be registered against the petitioner on 21.1.2003 and order came to be passed which is impugned in this petition on 21.4.2003 i.e. after almost three months, though , in between the proposing authority recorded the statements of the witnesses on 30.3.2003 but the same was verified on 8.4.2003. Therefore there is a delay in passing of the order from the date of registration of the last offence and also after placing the proposal before the Detaining Authority. This delay is fatal to the order impugned in this Special Civil Application. In this view of the matter, the order impugned in this Special Civil Application is required to be quashed and set aside on the ground of delay caused in passing the impugned order.

5. In the result, this Special Civil Application is allowed with no order as to costs. The order impugned in this Special Civil Application passed by the District Magistrate, Valsad, on 21.4.2003 under Section 3(2) of the PASA Act against the petitioner is quashed and set

aside. Petitioner is directed to be set at liberty forthwith if he is not required to be detained in jail for any other purpose. Rule made absolute.

(J.R. Vora, J.)

p.n.nair